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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

Case No. 4092

12 **JENNIFER SCHALOY STEELE**

STATEMENT OF ISSUES

13 **1530 Lake Boulevard, #F**
14 **Redding, CA 96003**

15 **Pharmacy Technician License**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about January 7, 2010, the Board of Pharmacy, Department of Consumer
24 Affairs received an application for a Pharmacy Technician License from Jennifer Schaloy Steele
25 (Respondent). On or about December 6, 2009, Jennifer Schaloy Steele certified under penalty of
26 perjury to the truthfulness of all statements, answers, and representations in the application. The
27 Board denied the application on April 29, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300 of the Code states:

"(a) Every license issued may be suspended or revoked.

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure.

5. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

1 The board may inquire into the circumstances surrounding the commission of the crime, in order
2 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
3 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
4 qualifications, functions, and duties of a licensee under this chapter.

5 6. Section 480 of the Code states:

6 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
7 one of the following:

8 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
9 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
10 board is permitted to take following the establishment of a conviction may be taken when the
11 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
12 an order granting probation is made suspending the imposition of sentence, irrespective of a
13 subsequent order under the provisions of Section 1203.4 of the Penal Code.

14 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
15 benefit himself or herself or another, or substantially injure another.

16 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
17 would be grounds for suspension or revocation of license.

18 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
19 substantially related to the qualifications, functions, or duties of the business or profession for
20 which application is made.

21 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
22 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
23 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
24 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
25 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
26 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
27 Section 482.

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1 "(c) A board may deny a license regulated by this code on the ground that the applicant
2 knowingly made a false statement of fact required to be revealed in the application for the
3 license."

4 7. California Code of Regulations, title 16, section 1770, states:

5 "For the purpose of denial, suspension, or revocation of a personal or facility license
6 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
7 crime or act shall be considered substantially related to the qualifications, functions or duties of a
8 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
9 licensee or registrant to perform the functions authorized by his license or registration in a manner
10 consistent with the public health, safety, or welfare."

11 8. Section 125.3 of the Code provides, in pertinent part, that the
12 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
13 have committed a violation or violations of the licensing act to pay a sum not to exceed the
14 reasonable costs of the investigation and enforcement of the case.

15 9. Section 118, subdivision (b), of the Code provides that the suspension/expiration
16 /surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction
17 to proceed with a disciplinary action during the period within which the license may be renewed,
18 restored, reissued or reinstated.

19 FIRST CAUSE FOR DENIAL OF APPLICATION

20 (CRIMINAL CONVICTION)

21 10. Respondent's application is subject to denial under section 480(a)(1) in conjunction
22 with section 4300 in that on or about February 19, 2010, in a criminal proceeding entitled *People*
23 *v. Jennifer Schaloy Steele*, in Superior Court of California, County of Shasta, Case Number
24 MCRDCRN 100000863. Respondent was convicted by plea of guilty to violating Penal Code
25 section 148(a)(1) (Resisting, Obstructing, Delaying an Officer) a misdemeanor which is
26 substantially related to the qualifications, functions or duties as a pharmacy technician. The
27 circumstances are as follows:

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1 11. On or about the 5th day of January 2010, Respondent did willfully and unlawfully
2 resist, delay and obstruct California Highway Patrol Officer Bronson, who was then and there a
3 public officer, peace officer, or emergency medical technician attempting to and discharging the
4 duty of his/her office and employment.

5 SECOND CAUSE FOR DENIAL OF APPLICATION

6 (ACTS)

7 12. Respondent's application is subject to denial under section 480(a)(3) in conjunction
8 with section 4300 in that on or about January 29, 2010, in a criminal proceeding entitled *People v.*
9 *Jennifer Schaloy Steele*, in Superior Court of California, County of Shasta, Case Number
10 MCRDCRTR 1000072300001, Respondent was convicted by a plea of nolo contendere of
11 violating Vehicle Code section 23152(A), a misdemeanor which is substantially related to the
12 qualifications, functions or duties as a pharmacy technician. The circumstances are as followed:

13 13. On or about January 4, 2010, Respondent did willfully and unlawfully, while under
14 the influence of an alcoholic beverage and a drug, and under their combined influence, drive a
15 vehicle.

16 THIRD CAUSE FOR DENIAL OF APPLICATION

17 (ACTS)

18 14. Respondent's application is subject to denial under section 480(a)(3) in conjunction
19 with section 4300, in that Respondent committed acts as described in paragraphs 9 – 13 inclusive
20 which, if done by a licentiate, would be grounds for suspension or revocation of license.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Pharmacy issue a decision:

24 1. Denying the application of Jennifer Schaloy Steele for a Pharmacy Technician
25 License;

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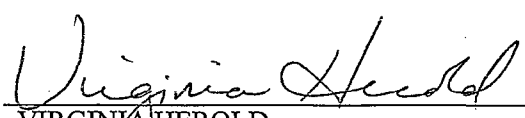
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2. Taking such other and further action as deemed necessary and proper.

DATED: 11/18/11



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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